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13 **UNITED STATES DISTRICT COURT**
14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
15 **OAKLAND DIVISION**

16 IN RE: COLLEGE ATHLETE NIL
17 LITIGATION,

18 Plaintiff.

Case No. 4:20-CV-03919-CW

**NOTICE OF MOTION AND MOTION
OF PROPOSED AMICUS CURIAE
USA DIVING, INC. FOR LEAVE TO
FILE BRIEF OF AN AMICUS
CURIAE; MEMORANDUM IN
SUPPORT THEREOF**

21 Date: June 26, 2025
22 Time: 2:30 p.m.
Courtroom: 3
23 Judge: Hon. Claudia Wilken

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1 interest in ensuring that the interests of its athlete members are not harmed as a result of any
2 settlement approved by this Court.

3 7. Many Olympic sports, like diving, are non-revenue generating sports that will be
4 substantially harmed if the Court approves any settlement that includes roster limits. USA Diving
5 can provide the Court a unique perspective about how roster limits will negatively impact collegiate
6 divers. USA Diving's perspective can also aid the Court by shedding light on the downstream effects
7 that will ultimately damage Team USA's ability to represent the United States at elite levels of
8 international competition.

9 8. USA Diving's amicus brief is directly relevant to the issues raised by the Court's
10 April 23, 2025 order concerning the proposed settlement's roster limits. USA Diving therefore
11 respectfully asks the Court to grant its motion for leave to file an amicus brief.

12 9. USA Diving's proposed amicus brief attached to the Declaration of Melinda M. Morton as
13 Exhibit A.

14 DATED: May 16, 2025

15 PROCOPIO, CORY, HARGREAVES &
16 SAVITCH LLP

17 By: 

18 Melinda M. Morton
19 Jacob K. Poorman

20 Attorneys for USA Diving, Inc.
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1 USA Diving, Inc. respectfully submits this Memorandum in Support of its Motion to File a
2 Brief of Amicus Curiae.

3 **I. Introduction and Background**

4 On April 23, 2025, following a hearing on final approval of the parties' proposed settlement,
5 this Court rejected final approval, raising concerns about the immediate implementation of the
6 proposed settlement's roster limits. (ECF No. 948). The Court accordingly directed the parties to
7 address potential modifications to the settlement agreement. (*Id.*). On May 7, 2025, the parties
8 submitted supplemental briefing detailing modifications to the proposed settlement. (ECF Nos. 958
9 and 959).

10 The modified proposed settlement, however, remains unreasonable and unfair. USA Diving
11 seeks leave to file an amicus brief to address these concerns from its unique perspective. USA Diving
12 is a non-profit corporation whose purpose is to enable United States athletes to achieve sustained
13 competitive excellence in domestic and international competition; to promote and grow the sport of
14 diving in the United States; and to foster a safe, positive environment for its athletes and other
15 members.

16 USA Diving has approximately 10,000 members, including 9,000 athlete members and 1,000
17 members who are coaches, judges, and officials. USA Diving's members—particularly, members
18 who are current or aspiring NCAA divers—will be impacted by the Court's decision to approved or
19 reject the proposed settlement. NCAA diving programs offer educational, competitive, and
20 professional opportunities to student-athlete divers—opportunities NCAA divers might not
21 otherwise have had.

22 In addition, NCAA diving programs serve as an important pipeline and development system
23 for USA divers and USA diving coaches. Collegiate diving is often the foundation upon which future
24 elite USA divers and USA diving coaches are built. USA Diving has a significant interest in ensuring
25 that the interests of its athlete members are not harmed as a result of any settlement approved by this
26 Court.

1 Many Olympic sports, like diving, are non-revenue generating sports that will be
2 substantially harmed if the Court approves any settlement that includes roster limits. USA Diving
3 can provide the Court a unique perspective about how roster limits will negatively impact collegiate
4 divers. USA Diving’s perspective can also aid the Court by shedding light on the downstream effects
5 that will ultimately damage Team USA’s ability to represent the United States at elite levels of
6 international competition—including the Olympic Games.

7 USA Diving’s amicus brief is relevant to the issues raised by the Court’s April 23, 2025 order
8 concerning the proposed settlement’s roster limits, as well as the parties’ proposed modifications
9 submitted on May 7, 2025.

10 **II. This Court should exercise its discretion and allow USA Diving to file its amicus curiae**
11 **brief.**

12 This Court should therefore allow USA Diving’s amicus brief. *See Cody v. Ring LLC*, 718 F.
13 Supp. 3d 993, 1004 (N.D. Cal. 2024) (“It is ‘within the Court’s discretion’ whether to allow amici to
14 file a brief, and courts generally exercise ‘great liberality’ in permitting amicus briefs.” (quoting
15 *California by & through Becerra v. United States Dep’t of the Interior*, 381 F. Supp. 3d 1153, 1164
16 (N.D. Cal. 2019)). “District courts frequently welcome amicus briefs from non-parties concerning
17 legal issues that have potential ramifications beyond the parties directly involved or if the amicus
18 has ‘unique information or perspective that can help the court beyond the help that the lawyers for
19 the parties are able to provide.’” *NGV Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F. Supp.
20 2d 1061, 1067 (N.D. Cal. 2005) (citation omitted).

21 USA Diving has “unique information or perspective” to offer the Court. USA Diving can
22 address how the proposed settlement’s roster limits will have a lasting negative impact on non-
23 revenue generating sports—and Olympic sports in particular. USA Diving can also speak to the
24 particular harm to NCAA divers, particularly as swimming and diving compete together in NCAA
25 competition and must therefore share roster spots. Beyond the sphere of NCAA competition, USA
26 Diving’s perspective reveals on how the proposed settlement will ultimately harm U.S. Olympic
27 programs like USA Diving, many of which rely on the NCAA pipeline to develop the elite athletes

1 who represent the United States on the world stage. This Court should therefore exercise its discretion
2 to permit USA Diving's brief.

3 **Conclusion**

4 USA Diving, Inc. respectfully requests that its motion for leave to file a brief of amicus curiae
5 be allowed.

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7
8 DATED: May 16, 2025

PROCOPIO, CORY, HARGREAVES &
SAVITCH LLP

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10 By: 

Melinda M. Morton
Jacob K. Poorman

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12 Attorneys for USA Diving, Inc.
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